

Mr. Edward Kelley, Chairman
CPS Energy Board of Trustees
P. O. Box 1771
San Antonio, Texas 78296

RE: Fort Sam Houston Microgrid Installation

Dear Chairman Kelley:

You may recall the January 16, 2017 Express-News article, "Lights on while off grid," enclosed at **A**. That revelation prompted my January 17 Open Records Request enclosed at **B** to which I received on February 3 the non-responsive CPS reply at **C**. Consider the coven of plagues we citizen-owners have identified that populate the environment from which your microgrid caprice has sprung:

1. According to **C**, "...no specific City Council approval was necessary..." but I know your approval was required. USAA, your former employer, would not undertake a new business without Board approval. (Frank Almaraz told the Express-News, "The way we've done business historically is not the way that things are going to happen forever.") Are you less strict with the investment of public funds in this microgrid new venture, simply because you are not regulated by City Hall?

2. I am sure *ex officio* CPS Board Trustee, Mayor Ivy R. Taylor has shared with you our verifiable concern that CPS is an unregulated monopoly. The Texas PUC ceded regulation of this City-owned utility to our Mayor/City Council. However, the City received 13.5% of CPS revenues, constituting 30.6 % of the City's 2016 budgeted revenue, in contractual payments from CPS in 2016. The Mayor/Council cannot simultaneously regulate and benefit from its utility. And what does an unregulated monopoly do? Anything it pleases!

3. Included in CPS' residential and commercial billings are contributions to the City at 2. above. While not itemized on invoices, this is a "stealth tax" — a charge imposed on payors for the benefit of a government. City-owned CPS is the City's tax collector. CPS customers are unaware of this City revenue source, allowing the City to increase its CPS billing revenue, free from accountability. City leaders, sensitive to the magnitude of obvious sales and property taxes, are not

held accountable for the invisible CPS Energy “stealth tax.” This taxation without representation is part of a fraudulent misrepresentation.

4. The CPS/City government bloc of which you are a chief enabler, is engaged in a monumental conflict of interest. Your position requires you, as the lead Trustee, to “hold assets for the benefit of the beneficiaries” who, in this instance, are the owners of CPS — the citizens of San Antonio. Instead, you serve the City because it is to them that you direct your lucre, “for where your treasure is, there will your heart be also.” Rather than control costs, your incentive is to increase billing, 14% of which is available to the City. To illustrate, the subject micro-grid project increases CPS’ costs, hastening the next rate increase (CPS is a “cost plus” enterprise). These higher costs impel higher rates which increase CPS billing, abetting the 14% mordidas that ensues, at 2. above.

5. Under the leadership of Frank Almaraz, then Senior VP of Finance and Accounting, CPS has been unable to quantify the costs and benefits of CPS’ Smart Grid investment, despite our extensive inputs when we met August 3, 2015. The project’s \$536 million in capital expenditures contributes to an identified \$2.5 billion spread between the CPS and Coalition financial impacts of Smart Grid over its 20-year forecast period, as summarized at **D** enclosed. This unreconciled difference was delegated to CPS’ lead attorney, EVP Carolyn Shellman for resolution but her response is simply, it is “CPS Energy’s view that this technology is beneficial for our customers.” Thus CPS’ justification for their Smart Grid project descends to a playground retort — “Just cuz.”

6. Enclosure **C** begins, “CPS Energy did not conduct an official cost/benefit analysis...,” and none was requested, but when you, Edward Kelley, approved this venture you knew enough to commit CPS to fully fund the project with \$950 million of my money to educate your engineers. With all the utility-scale battery projects that are completed, in progress and studied around the world you had to replicate the process in the CPS environment? The cure for this profligate and unnecessary pioneering is education which allows us to learn from the mistakes of others, avoiding the costs of reinventing the wheel.

7. “The City of San Antonio is committed to providing transparency and open government to its Citizens,” an ethos ignored by CPS under your leadership. Our May 21, 2016 letter to your EVP Jelynn Leblanc-Burley requested the Return on Investment components for “combining solar energy with storage.” Senior Counsel Kipling Giles responded June 14, 2016 in a letter to the Open Records Division of the Attorney General’s Office that such disclosure “would negatively impact CPS Energy’s position in these energy markets.” The truth, revealed by 6. above, is that you never developed a battery plant economic

profile because just a year and a half after our request you “did not conduct an official cost/benefit analysis” for subject microgrid project. People generally hide things when they have something to hide.

8. Your partners in the microgrid project include the Department of Energy, the Department of Defense, Air Force and Army. Yet the smallest, poorest member, the City of San Antonio, paid the full tab for the project. What does that say about your negotiating skills, your performance as a “trustee?” See 4. above.

9. We have recently encountered “The Standards-Based Microgrid Meets the Industrial Internet of Things,” two pages of which are enclosed at E, announcing “the Industrial Internet Consortium — a group of more than 150 companies (including our CPS Energy) working on a common path toward ubiquitous standards-based machine-to-machine communication...” This is another CPS commitment to redeem CPS’ investment in uneconomic renewable energy with more undisclosed spending. Your secrecy is understandable since you will not tell us owner-customers how much more you are paying to acquire wind and solar inputs (strike one); you will not refine the projected financial impact of your Smart Grid project (strike two); and now we learn of another layer of “investment” (strike three). Strikes two and three are devoted to using the costlier intermittent, unreliable power generated by renewable energy sources. And all this to accommodate ex-President Obama’s energy mandate, “When I get done regulating coal, utility bills will necessarily skyrocket.” At USAA you heard this financial delirium described as a “cash trap” — adding more cash to rescue an earlier bad cash investment; or, in the vernacular, it is “throwing good money after bad.” What happens to this technological bubble, constructed to compensate for bad federal energy policy, if the Trump administration rescinds the federal subsidies required for its viability? It has been said, “politics is for a term; economics is forever.”

10. Who financially benefits from this boondoggle? Vendors Siemens and Accenture get the cash —

- without a competitive bid, or even an RFP citing CPS’ expectations;
- while Omnetric Corp. (a joint venture of Siemens and Accenture) “provided the software and communication architecture,” thereby foreclosing competitors from this and successive microgrid projects;
- as CPS absorbs the added burden of the “day to day operation of the microgrid;”
- and CPS revels in the panache of your relationship with the University of Texas at San Antonio. But no one reveals that UTSA is a CPS sub-contractor, paid by CPS with my money. UTSA is not an evaluator; it is a paid abettor.

Our growing perception of the corruption surrounding the political manipulation of the CPS Energy cash cow, at the sacrifice of economic discipline, continues as you are being considered for reappointment to the CPS Board of Trustees. You have sacrificed your good USAA business practices to the contrivances of a self-serving City government as you enjoy the accompanying freedom from accountability. You were only following orders? Where have we heard that before?

Faced with the overwhelming tide of public awareness of the corruption in which you are engaged, I encourage you to withdraw your name from consideration for reappointment to the CPS Board, or systematically refute the damning allegations summarized above. Mayor Taylor is very familiar with these issues and can help you marshal your defense.

Betrayed,

(b) (6)



enclosures

cc. Governor Greg Abbott

Texas State Senator Donna Campbell

Senator John Cornyn

Senator Ted Cruz

Texas State Representative Lyle Larsen

Energy Secretary Rick Perry

EPA Administrator Scott Pruitt

U. S. Representative Lamar Smith

Mayor Ivy R. Taylor

San Antonio City Council

Interior Secretary Ryan Zinke

"Of all forms of government, those administered by bureaus are about the least satisfactory to an enlightened and progressive people. Being irresponsible, they become autocratic, and being autocratic they resist all development. Unless bureaucracy is constantly resisted it breaks down representative government and overwhelms democracy. It is the one element in our institutions that sets up the pretense of having authority over everybody and being responsible to nobody."

President Calvin Coolidge, 1926

James Boston, manager of market intelligence for CPS Energy, shows the microgrid test site at Joint Base San Antonio-Fort Sam Houston, which includes three banks of solar panels and a 75-kilowatt battery that can provide power to the post's library.

Lights on while off grid

Test program at Fort Sam uses renewable energy

By Rye Druzin
STAFF WRITER

One of San Antonio's military bases is ground zero to test how renewable energy can keep the lights on for mission-critical infrastructure even when the grid is down.

The \$950,000 microgrid system at Joint Base San Antonio-Fort Sam Houston was funded by CPS Energy and implemented by a partnership between Omnetric Group and Siemens. The system utilizes a 20-kilo-

watt solar system and a 75-kilowatt battery that can power the Keith A. Campbell Memorial Library for up to 40 minutes.

The project is part of the Energy Department's National Renewable Energy Laboratory Integrated Network Testbed for Energy Grid Research and Technology Experimentation program, or INTEGRATE, which seeks to better integrate intermittent sources of power such as renewables into the grid.

"We have DoD, Air Force and Army goals that state mission

assurance through energy assurance or energy resilience, and (this project) is right in line with that goal," said Brenda Roesch, Joint Base San Antonio base civil engineer.

The system at Fort Sam generates and stores electricity, allowing CPS to draw off the system while offering a backup for the 23,000-square-foot library if grid power turns off. The library was chosen as a test site because it's not mission-critical to Fort Sam.

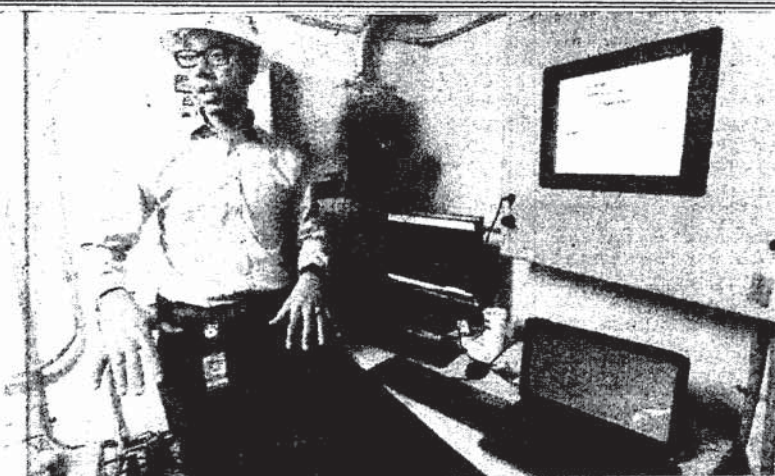
Frank Almaraz, CPS' senior

vice president of strategy and commercial operations, said systems such as the one at Fort Sam are part of the utility's future.

"The way we've done business historically is not the way that things are going to happen forever. We're in a period of accelerated change," Almaraz said.

Such microgrids are usually known for their use on remote islands throughout the world, where a combination of solar or

Energy continues on B6



Kin Man Hui / San Antonio Express-News

CPS Energy's James Boston discusses the battery storage system of the microgrid test system at Joint Base San Antonio-Fort Sam Houston.

ENERGY

From page B1

wind power is stored in batteries. Other systems can use diesel generators to store electricity, but they require expensive fuel to be delivered to remote locations.

Siemens' Clark Wiedetz, director of microgrid and renewable integration, says microgrids make renewable assets — such as the more than 1,200 megawatts of wind

and solar power that CPS buys — more valuable as a part of their overall system.

"It allows them within their service territory to redistribute the load based on if something happens — weather issues somewhere, a station goes down — now they can move loads," Wiedetz said.

CPS' getting to that point hinges on battery costs coming down. Almaraz said such costs are currently prohibitive, but

he hopes that the testing on the Fort Sam microgrid will help CPS prepare to take advantage of batteries when their costs come down.

"One day, it could be a neighborhood, it could be a facility like the airport, or our military or the hospital — or an individual who never wants to be out of power and produce some of their needs by a solar system on their roof," Almaraz said of how microgrids could be used.

OPEN RECORDS REQUEST

B

(b) (6)

A large rectangular area of the document is redacted with a solid grey box.

Mr. Frank Almaraz, Senior Vice President
CPS Energy
P. O. Box 1771
San Antonio, Texas 78296

Dear Frank:

I learned from the enclosed "Lights on while off grid" article in the January 16 Express-News of **"The \$950,000 microgrid system...funded by CPS Energy..."** We know from our earlier working relationship that CPS excludes the cost of capital from its project cost estimates. If we use CPS' characteristic 20-year life for the project and apply a recent 5.00% capital cost, we can impute, at the end of 20 years, \$950,000 in interest expense, coincidentally doubling your investment estimate. And what about replacement batteries, another capital cost? Surely, you do not expect your initial battery array to last 20 years.

I also learned that the DOE INTEGRATE program of which the Fort Sam microgrid is a part **"...seeks to better integrate intermittent sources of power such as renewables into the grid."** This is CPS' first acknowledgement that renewables introduce two layers of incremental costs (all of which are passed to us ratepayers) -- the higher cost of acquiring wind and solar power, the magnitude of which CPS refuses to share with us citizen-owners, and the higher cost of using that power (as demonstrated by this project) because the sun and wind are not under CPS' control.

Further, Siemens says, **"microgrids make renewable assets...more valuable as a part of (CPS') overall system."** By how much will project economics improve when the cost of acquired power is elevated to the value of delivered power (the microgrid's challenge)? This question is within the purview of our Open Records Request:

Please provide for the Fort Sam microgrid project:

1. All project cost/benefit analyses, including work papers, e-mails and vendor communications that justify spending a minimum of \$390 per operational hour on the project. What benefits justify this level of investment? Developing the \$390 estimate:

Partial Investment -- $\$950,000 + \$950,000 \text{ cost of capital over 20 years} = \$1,900,000$
Annual Partial Investment -- $\$1,900,000 / 20 \text{ years} = \$95,000$

Maximum Operating Hours -- 40 minutes per day x 365 days per year = 14,600 min./year
Annual Operating Hours -- 14,600 min. / 60 min. per hour = 243.33 hours per year

Partial Investment per Operating Hour -- \$95,000 / 243.33 hours per year = \$390.42

This conservative cost assessment excludes both investments in replacement batteries and O&M expense incurred to operate the microgrid.

2. Documentation of the San Antonio City Council approval of the Fort Sam project, a major departure from CPS' historic operating practice. As you say, "The way we've done business historically is not the way that things are going to happen forever."

3. Copies of CPS Requests for Proposal, the bases for competitive bids and the resulting contract awards to microgrid project vendors Omnetric Group and Siemens.

As in the past, you will be tempted to request Texas Attorney General Ken Paxton to grant an exemption from disclosure of the requested information because "...this Confidential Information...would negatively impact CPS Energy's competitive position in those energy markets," per the appeal in Senior Counsel Kipling Giles' June 14, 2016 letter to General Paxton -- who supported the CPS position. But before resorting to this gambit, recognize that the Fort Sam project is --

Part of a Department of Energy (taxpayer-funded) Research and Technology program
Support for Department of Defense, Air Force and Army (taxpayer-funded) goals

Far removed from a commercial application that could commend confidentiality; rather, you describe it as "testing."

Thank you in advance for sharing your Fort Sam project cost/benefit analysis. With the federal administration change, I expect we will witness the ascendancy of economics as a determinant in making capital allocations, replacing the political basis for these decisions under the Obama administration.

Sincerely yours,

(b) (6)



enclosure

cc. emailed to open_records@cpsenergy.com

Response to Open Records Request, January 17, 2017 (3)

Open_Records <Open_records@cpsenergy.com>

Feb 3 at 4:09 PM

To (b) (6) II

(b) (6)

In response to the specific requested items below that were included in your recent attached correspondence to Frank Almaraz, CPS Energy does not have any responsive materials.

In an effort to provide some context, please see the following summary of the microgrid project.

CPS Energy did not conduct an official cost/benefit analysis on whether or not to elect to participate with Omnetric Corp. (a joint venture between Siemens and Accenture), Duke Energy, and the University of Texas at San Antonio (UTSA) in a research project to study the effects and benefits of microgrids on the larger grid surrounding them. The project, however, was discussed internally and no specific City Council approval was necessary for this project. The project provided a rare and early opportunity to learn about technological challenges that will have to be dealt with on a larger scale in the future, and how our customers can benefit from the resiliency that such technology can provide. The information obtained from the project will be used by CPS Energy to address similar situations as this type of technology becomes more prevalent in the overall system. CPS Energy has identified the following nonexclusive list of benefits from our participation in this project thus far:

- Gain **operational knowledge** and understanding of Microgrid technology to develop capability of providing next generation reliability and resiliency to customers in the future
- **Validate and develop operating procedures to ensure the safety** of CPS Energy crews and customers interacting with Microgrid technology
- Develop communication technology that is vendor neutral to **seamlessly incorporate new technology**
- Usage of technology developed by project partners during this initiative

CPS Energy's relationship with Omnetric Corp. did not require or lend itself to the Request for Proposal (RFP) process due to the uniqueness of the research opportunity. Omnetric Corp. provided the software and communication architecture for the project while CPS Energy agreed to construct the grid and provide the necessary energy storage and solar panels as well as the day to day operation of the microgrid. Omnetric Corp. and CPS Energy agreed to share their findings with each other as well provide access to each other's respective project components.

CPS Energy values the information and the experience gained from participating in this project and it will assist and enable CPS Energy to be prepared for the upcoming challenges these microgrids will create for the overall distribution system in which they reside.

Thank you,

Open Records

CPS Energy | 145 Navarro, San Antonio, Texas 78205 | Mail Drop: 110910

Office: (210) 353.2796 | Fax: (210) 353.3774

www.cpsenergy.com

Requested materials from attached request:

1. All project cost/benefit analyses, including work papers, e-mails and vendor communications that justify spending a minimum of \$390 per operational hour on the project. What benefits justify this level of investment?
2. Documentation of the San Antonio City Council approval of the Fort Sam project, a major departure from CPS' historic operating practice. As you say, "The way we've done business historically is not the way that things are going to happen forever."
3. Copies of CPS Requests for Proposal, the bases for competitive bids and the resulting contract awards to microgrid project vendors Omnetric Group and Siemens.

Smart Grid 20-Year Cash Flow/Ratepayer Burden Projections (\$000)
CPS vs. Coalition -- S. J. Mitchell, February 1, 2017

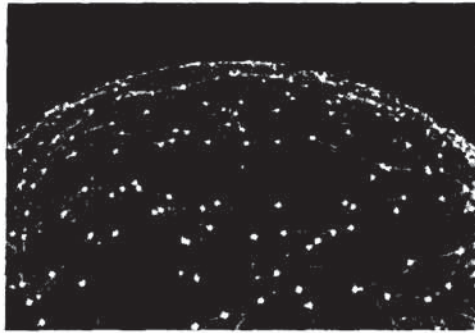
	a	b	c	d
	CPS Model Spreadsheet Aug 5, 2016 See A	Coalition Spreadsheet 1/30/17 Rev. See B	Model Errors/Omissions	
			Ranking	Source in Shellman 9/10/16 Letter
Capital Expenditures				
Electric Meters, Network, Installation	157,445	157,445		
Gas Meters, Network, Installation	33,568	33,568		
IT Integration and Software	22,460	22,460		
Replacements -- what equipment lasts 20 years?	omitted	322,687	5	1.2, page 2
Total Capital Expenditures	213,473	536,160		
Operating & Maintenance (O&M) Expense				
Stranded Costs	omitted	22,308	8	1.3, page 3
More power required to operate Smart Grid	omitted	16,844	10	3.5, page 8
Total O&M	109,834	148,986		
Benefits				
Customer Service, Electric	260,123	260,123		
Customer Service, Gas	76,239	76,239		
Meter readers replaced so savings end, Electric	Model error	-137,597	-227,296	6
Meter readers replaced so savings end, Gas	Model error	-61,443		
Meter reading ends; excess vehicle savings end	Model error	-28,256		
Distribution Operations	67,341	67,341		2.1, page 4
Revenue Enhancement (Model addition error)	29,580	57,959		2.2, page 4
Avoided Capital	35,146	35,146	+28,379	7
Total Benefits	468,428	269,511		2.3, page 5
Cash Flow Sub-Total	145,122	-415,634		
Cost of Capital, 5% x (Capital Expend.+Net Cash Flow)	omitted	-522,813	2	1.1, page 2
Total 20-Year Ratepayer Burden	145,122	-938,447		
Project-Related Ratepayer Burdens				
Increased Electric Meter Accuracy	omitted	-589,029	1	3.1, page 5
"Time-of-use" billing (placeholder)	omitted	-404,952	3	3.2, page 6
Battery Plant (placeholder)	omitted	-400,000	4	3.3, page 7
Abandoned 40,000 meter test (placeholder)	omitted	-20,980	9	3.4, page 7
Consultant Fees (placeholder)	omitted	-8,233	11	3.6, page 8
Total Ratepayer Burden	145,122	-2,361,641		

Spread, CPS Understatement of Ratepayer Burden

2,506,763

GRID EDGE

The Standards-Based Microgrid Meets the Industrial Internet of Things



The Industrial Internet Consortium brings tech vendors and utilities on board to test and deploy interoperable grid-edge technology.

by Jeff St. John

(<https://www.greentechmedia>)

April 03, 2015

Last week, the Industrial Internet Consortium -- a group of more than 150 companies working on a common path toward ubiquitous, standards-based machine-to-machine communication -- launched an ambitious project aimed at bringing real-time data analytics and control to the world of microgrids, and potentially, the grid at large.

Building on work being done by Duke Energy and its "Coalition of the Willing" (<http://www.greentechmedia.com/articles/read/Microgrids-Drive-Dukes-Coalition-for-Grid-Edge-Interoperability>) vendor partners, the project, officially titled the Communication and Control Testbed for Microgrid Applications (<http://www.iiconsortium.org/microgrid.htm>), is seeking to test a common set of technology standards and data models for distributed energy devices and computing platforms.

The end goal is to allow smart solar PV inverters, energy storage systems, plug-in electric vehicles, responsive building energy loads, and other grid-edge systems to work in real time with the utility smart grid platforms they're connected to -- not

through complicated, project-by-project integration, but in a more “plug-and-play” fashion.

That’s a tough challenge, as we’ve noted in our ongoing coverage of efforts on this front. To date, the world’s microgrids (<http://www.greentechmedia.com/articles/read/The-Rise-of-Microgrid-Deployments-and-Strategic-Partnerships>) have been built with components from different vendors, using different technology implementations, which makes integrating them a complex and time-consuming task, not easily replicable from one project to the next.

While microgrids are being designed and built by grid giants like Siemens (<http://www.greentechmedia.com/articles/read/Siemens-Moves-Into-Microgrids-Partners-with-Utilidata>), General Electric (<http://www.greentechmedia.com/articles/read/general-electrics-slow-path-to-grid-scale-energy-storage>), ABB (<http://www.greentechmedia.com/articles/read/ABBs-PowerStore-the-Key-to-Green-Powered-Microgrids>), S&C Electric (<http://www.greentechmedia.com/articles/read/bc-hydro-mixes-energy-storage-and-distribution-automation>), Schneider Electric (<http://www.greentechmedia.com/articles/read/Grid-Giants-Aim-to-Power-Islands-With-Green-Powered-Microgrid>) and Toshiba (<http://www.greentechmedia.com/articles/read/dynamic-pricing-to-balance-solar-power-with-the-smart-grid>), power system specialists like Power Analytics (<http://www.greentechmedia.com/articles/read/ma-on-the-grid-edge-causam-buys-power-analytics>) and Spirae (<http://www.greentechmedia.com/articles/read/spirae-launches-the-operating-system-for-distributed-energy>), and even third-party solar companies like SolarCity (<http://www.greentechmedia.com/articles/read/SolarCity-Combines-its-Skills-to-Finance-Microgrids-as-a-Service>), they’re not necessarily being put together in ways that can accommodate innovation and participation by third parties.

But this new project, which includes IIC members Real-Time Innovations, National Instruments and Cisco, utilities Duke Energy, Southern California Edison and San Antonio, Texas’ municipal utility CPS Energy, and the Smart Grid Interoperability Panel (SGIP) industry organization on board, is one of the most comprehensive efforts yet to bring standards to this nascent industry.

It also has an interesting set of underlying technologies to build on. The first tool is the secured messaging protocol Data Distribution Service (DDS) (<http://www.rti.com/company/news/localgrid-secure-microgrid-using-dds.html>), originally developed for the U.S. Navy to connect shipboard IT systems in a real-time, peer-to-peer network, which is now in use to operate Siemens Wind Power turbines and big U.S. hydropower projects. Real-Time Innovations is providing its open

(b) (6)

U.S. POSTAGE
PAID
SAN ANTONIO, TX
78230
FEB 14 17
AMOUNT
\$1.40
R2304H108874-10



2046C



1000

ADMINISTRATOR SCOTT PRUITT
ENVIRONMENTAL PROTECTION AGENCY
1200 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20460

FEB 27 2017



FCF 2025574

(b) (6)

721 S. Edison Rd.
Bakersfield, CA 93309

February 6, 2017

Mr. Scott Pruitt
Environmental Protection Agency
Office of the Administrator
Mail Code 1101A
2100 Pennsylvania Ave NW
Washington, DC 20460

Mr. Pruitt:

As part of our Science curriculum for (b) (6) students at Edison Middle School - a small, rural school outside of Bakersfield, CA - have been learning about climate change. Specifically, they've been learning how small changes in their habits can lead to big gains in helping prevent the slow melting of the Earth's polar ice caps.

As part of the unit, students were asked to choose a specific person to write to in order to try and affect change. Students chose you because your organization is one of the first ones they could think of that is in any position to make real change at the governmental level. Their hope is that the letters are received with the best of intentions. No ill-will is meant, and any perceived is likely due to the fact that they're still learning to use the nuances of English effectively.

At any rate, even the shortest of responses would be appreciated. The kids have done a ton of research on the topic, and they are proud of their small ideas for solutions.

We wish you luck as you attempt to help protect this precious Earth of ours for future generations to come.

Responses may be mailed to:

Edison Middle School

(b) (6)

721 S. Edison Rd.
Bakersfield, CA 93309

Regards,



(b) (6)

(b) (6)

SANTA CLARITA
CA 913
15 FEB '17
PM 7 L

FEB 27 2017



MR. Scott Pruitt
Epa
Office of the Administrator
Mail code 1101A
1200 Pennsylvania Ave. NW
Washington, DC 20460



20460-



BOARD OF SUPERVISORS

R. Douglas Weimer, CHAIRMAN
John Silvis, VICE-CHAIRMAN
Thomas Logan, TREASURER
Jerry Fagert, SUPERVISOR
George Reese, SUPERVISOR

Hempfield
TOWNSHIP
A Great Place to Raise a Family

ADMINISTRATION

Andrew Walz, TOWNSHIP MANAGER
Bruce R. Beitel, ASST. MGR/DIRECTOR OF PUBLIC SAFETY
Douglas J. Cisco, DIRECTOR OF PUBLIC WORKS
Jason M. Winters, DIRECTOR OF PARKS & RECREATION
Melanie M. Phillips, DIRECTOR OF FINANCE

February 17, 2017

Mr. Scott Pruitt
Administrator – 1101A
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Administrator Pruitt:

Congratulations on your recent confirmation as EPA Administrator. I am confident you will bring about much needed change to the burdensome regulations emanating from Washington.

As such, I implore you to roll back the budget crushing Municipal Separate Storm Sewer (MS4) regulations. Without your swift action these regulations will crush the budgets of local governments.

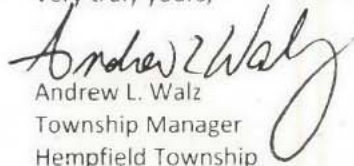
In Hempfield Township, we have not raised taxes since 1990. With strong economic growth we have been able to withstand the cost of many unfunded mandates. MS4 will end that. A recent proposal from our engineering firm indicated the cost to merely create the required MS4 plans to be upwards of \$250,000, with annual maintenance and operating cost being roughly \$2.5 million. This may not sound like a great deal in Washington, but our annual budget is only \$12 million. To pay for MS4 we would have to more than double taxes on our 43,000 residents.

Moreover, these regulations appear to be regulation for the sake of regulation. I was recently speaking with a business owner based here, but with a plant in California where these regulations are already in effect. He informed me that his business was fined for a high PH level in their water; however, when they tested the rain it was falling onto their roof with that existing level.

I've enclosed an article from our local paper detailing these issues more broadly. After reading it, I'm certain you will agree that when government is fining people for washing their car something is wrong.

Thank you for your attention to this matter.

Very truly yours,


Andrew L. Walz
Township Manager
Hempfield Township

ALW/dk
Enclosure

CC: President Donald Trump, 1600 Pennsylvania Avenue NW, Washington DC 20500
Senator Pat Toomey, 100 W. Station Square Drive, #225, Pittsburgh PA 15219
Congressman Tim Murphy, 2040 Frederickson Place, Greensburg PA 15601

OFFICE OF THE
EXECUTIVE SECRETARIAT

2017 FEB 27 PM 3:09

RECEIVED

1132 Woodward Drive, Greensburg, PA 15601

724-834-7232 724-834-5510 - FAX

www.hempfieldtwp.com

Hempfield Township is an Equal Opportunity Employer

Pennsylvania's crackdown on waterway pollutants poses big changes for residents

EMILY BALSER AND ANDREW ERICKSON | Saturday, Feb. 4, 2017, 11:30 p.m.

An act as simple as washing your car in your driveway will require extra care as mandated stormwater management plans take effect across the state.

"You can't use soap if you wash your car and the water runs out onto the street and then into the storm drain system," said Lucien Bove, whose firm, Bove Engineering, represents several Alle-Kiski municipalities, including Vandergrift.

Officials say residents will have to be more aware of what contaminants may be flowing from their property and into municipal storm drains as regulations ramp up to reduce pollution in waterways.

Municipalities already are preparing for renewal of their municipal storm sewer system permits, which must be completed every five years. Applications are due in September.

A pollutant reduction plan, or PRP, which requires municipalities to calculate pollutant amounts and propose practices and projects to reduce those amounts during the permit period, is required.

The state ramped up this year's requirements for municipalities across the state.

Bove said he takes issue with some of the changes to discharges allowed in this round of permits.

"It has its merits to eliminate pollutants, and we need to identify that, but it goes too far," Bove said. "Now, if we see someone washing his car, do we call the ordinance officer? Do we call the police?"

Bove said commercial car washes are not at issue because they already have proper drainage in place.

"That water is supposed to go to sanitary sewers, or they can recycle the water," he said.

SOAP, OIL, PAINT THINNER NOT ALLOWED

Harrison resident John Valarik, 42, said he understands the concern to keep water safe, but not using soap to wash your car isn't effective.

"Unfortunately, water doesn't get your car clean," he said. "I would be fine being forced to buy soap that was non-toxic."

Valarik, who recently moved back to the area from San Francisco, said these kind of regulations aren't new for him.

He said no one was allowed to wash their cars at their homes in San Francisco. He doesn't mind going to a car wash.

"As long as I don't have to drive 20 miles," he said.

Residents also have to be careful when changing car oil or spilling household items such as fuel, paint or paint thinner. Those items can't be washed into a stormwater drain. Bove said it is less

likely residents will be able to get away with dumping these items because there will be more oversight.

"Now, we have to look for these things," Bove said. "We have to do sampling and testing."

HOMEOWNERS TO FEEL THE EFFECTS

Residents will also have to change how rainwater flows off the roofs of their houses.

"They would like it to be infiltrated back into the ground somehow," Bove said.

Jennifer Luzik, president of the Greater Alle-Kiski Area Board of Realtors, said Realtors have tried to stay aware of the changes to make it easier for people looking to buy or sell their houses. She said the cost of repairs to meet the new standards has been a notable difference.

"We're being proactive because we know that it's going to be trickled down to other local municipalities," Luzik said. "We are working it to see if there's anything that can be done in the future as far as if a homeowner cannot afford to have the necessary repairs to be made."

Luzik said homeowners are required to have a plumber come and test all of the pipes in the house with dye to look for leaks and cracks. They test the pipes all the way to the street.

If they find something, the cost falls on the homeowner.

"They're looking for any disruption," she said. "Any water leaking in from cracks in the terra-cotta piping."

Bove said residents will start noticing when municipalities have to come up with money to pay for all of the changes — which will likely fall on residents.

"It doesn't sound fun or happy, but these regulations require things that cost money," he said. "And the municipalities don't have that money."

He said that may come in the form of extra taxes or fees on sewer bills.

Officials do have a few resources to help alleviate some costs.

POSSIBLE HELP IN WESTMORELAND

For municipalities in Westmoreland County, one of those resources is the Westmoreland Conservation District.

Hydraulic engineer Jim Pillsbury and landscape architect/stormwater technician Kathy Hamilton pointed to several "green infrastructure" projects across the county in which the Conservation District partnered with a municipality to apply for a state Growing Greener grant.

One such grant helped convert an unused tennis court at Valley High School in New Kensington into an environmentally friendly parking lot made of porous concrete block that reduces runoff.

Another funded a similar project in Derry, Pillsbury said.

The district hopes to partner with Vandergrift to apply for a Growing Greener grant to complete a tree-planting and sidewalk renovation project along Columbia Avenue that began in 2010.

The Westmoreland Conservation District, which has a counterpart in each county, is limited in revenue as well as staffing — Pillsbury said just three staffers in Westmoreland County are

devoted specifically to stormwater management — but intends to be a resource for municipalities.

“We aren't part of a regulatory body, but we can be part of the solution,” Pillsbury said.

The Westmoreland Conservation District holds workshops for municipalities to discuss permitting changes, Hamilton said, and provides educational workshops for county residents.

Allegheny Township Manager Greg Primm said his township, for example, has outsourced the educational component of its control measures to the county Conservation District.

RUDE AWAKENING ON HORIZON

Pillsbury said several municipalities could be in for a rude awakening with the upcoming municipal storm sewer permits, as the state Department of Environmental Protection and federal Environmental Protection Agency enforcement likely will be more involved starting in 2018.

Pillsbury welcomes calls and visits from township engineers and managers and understands the difficulties associated with complying.

“In a municipality, you're always putting out another fire,” he said. “There's never enough staff, never enough budget.”

At the state level, the DEP offered a series of meetings in the summer and fall to discuss the changes to upcoming permits and how to prepare pollutant reduction plans.

Neil Shader, DEP press secretary, said his agency provides a few funding options for municipalities looking to take on stormwater management projects. Growing Greener grant applications are accepted each January, and he said some money for projects may be available through PennVEST.

The state Stormwater Management Act, passed in 1978, provided some funding to municipalities to develop stormwater management plans — not projects — but those funds dried up about 10 years ago, Shader said.

Andrew Blenko, North Huntingdon Township planning director and township engineer, was highly critical of the Environmental Protection Agency regulations that have been under formulation since 2004, when the municipal separate stormwater system regulations were proposed.

North Huntingdon, however, does not have to file its notice of intent to comply with the regulations next year because of the timing of the permitting process for the township.

MONITORING RESIDENTS

“If some knucklehead dumps oil down a storm drain and it works its way into a creek,” the township is responsible, Blenko said.

“We don't have enough police officers to patrol every storm sewer to see that no one dumps something down the drain,” Blenko said. “It's lunacy.”

The township also is supposed to achieve a 10 percent reduction in the amount of pollution being dumped into its streams, but Blenko said that is almost impossible when the region's waterways are so impacted by acid mine drainage or runoff from coal dumps.

Brush Creek in the township, he pointed out, runs orange because of the mine drainage.

"It doesn't make any sense," Blenko said.

Stormwater in Jeannette also drains into Brush Creek.

But as far as catching scofflaws who use the stormwater drains for inappropriate materials, that's pretty much impossible, Jeannette Manager Michael Nestico said.

"If someone's pouring paint down the sewer, it's not easy to catch them," he said.

Officials may notice a problem if work is being performed on a drain and monitor it more closely in the future, he said.

But other than that, it's a lot of relying on residents not to do it and neighbors to keep an eye out for those who do, he said.

"There's no easy way to know that," Nestico said. "A lot of it's going to fall on the community to recognize hazards and not commit practices like that."

There are small signs affixed to some of the storm drains in Jeannette that say "No Dumping! Drains to Brush Creek." But those are pretty old.

Police can't monitor storm drains.

"People are probably able to get away with it," Nestico said.

He doesn't expect the permit requirements to come with a significant cost.

"It's going to be more administrative work than anything," Nestico said.

The Long Run watershed, along Lincoln Way as it flows toward White Oak, is designated an impacted watershed.

But housing was developed along the watershed long before the designation.

To improve the stream to meet the standards, Blenko said, the township would have to build holding ponds along the waterway and implement other pollution-removal methods at a "staggering cost."

'A LEARNING EXPERIENCE'

For the high potential costs of reducing stormwater pollution in separate stormwater systems, several engineers said DEP personnel have done the best they can in implementing permitting changes put forth by the EPA.

Ben Bothell of Senate Engineering, who represents several communities including Leechburg, North Apollo and Kittanning as municipal engineer, said, "DEP, they're doing the best they can to make people aware (of changing permit requirements). Their staff has been helping us."

Bothell said that despite only recently learning about the PRP requirement, he's already working on applications for the communities he represents.

"It's a learning experience for all of us," Bothell said, "but we're working the best we can."

Hempfield Township Board of Supervisors
GREENSBURG-HEMPFIELD BUSINESS PARK
1132 WOODWARD DRIVE, SUITE A
GREENSBURG, PA 15601

PITTSBURGH
PA 150
18 FEB '17
PM 1 L



NEOPOST
FIRST-CLASS MAIL
\$000.46⁰
02/17/2017 ZIP 15601
042L14807362

U.S. POSTAGE

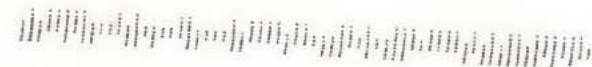
FEB 27 2017



FCL20358055

Mr. Scott Pruitt
Administrator - 1101A
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

20460-



RECI

2017 FEB 27 PM 3:09

OFFICE
EXECUTIVE SECRETARIAT

Seabury School

1801 53rd ST NE

Tacoma WA 98422

Scott Pruitt

Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, DC 20460

Dear Mr. Pruitt,

I am writing you about the decline in salmon due to dams and habitat destruction. Around the 1900's 30,000,000 salmon went back to the Columbia River. Now around 300,000 return to the great river. That's only one percent!

"Well what should we do about it?" you ask. Well we have to make sure that the things that are stopping the salmon from getting to the stream are dealt with. These things include the big dams that we can make sure have salmon ladders in them. The buildings that block off salmon from getting down to the stream which we can enforce more building laws about that. Even the orcas that eat half a million salmon a year. Do you think that the runs of less than half a million can take that? I am not saying that we should kill the orcas; I am just saying we should monitor the orcas so that they do not eat all of the salmon.

Thank you for reading my letter. I hope you at least thought about the things talked about in this letter. I will very much appreciate anything you can do about this very important issue. Salmon are dying and we do not have much time so I wish you the best of luck on this issue.

Sincerely,

(b) (6)



TACOMA WA 983
OLYMPIA WA
21 FEB 2017 PM 9 L



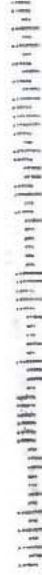
SCOTT PRUITT
ENVIRONMENTAL PROTECTION AGENCY
1200 PENNSYLVANIA AVENUE N.W.,
WASHINGTON, DC 20460

FEB 27 1977



FCL 20361781

1000



(b) (6)

RECEIVED

2017 FEB 27 PM 3:08

OFFICE OF THE
EXECUTIVE SECRETARIAT

Mr. Scott Pruitt, Esq., Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
Office of the Administrator 1101A
Tel 202-564-4700

February 17, 2017

Dear Mr. Pruitt:

In 1992, the Congress passed the Energy Policy Act (102nd Congress H.R.776 ENR, abbreviated as EPACT92) which was later amended by the Energy Policy Act of 2005. What these laws have collectively done is to limit the amount of water a personal water closet and commonly called a toilet uses. Older toilets use 5 or 3.5 gallons per flush. The Environmental Protection Agency went even further, bullying plumbing fixture manufacturers to make toilets that use about 1.25 gallons per flush. By changed, I mean that after the 1992 law went into effect, all toilets sold in the United States had to use no more than 1.60 gallons per flush. Since that time the Environmental Protection Agency has coined the term: WaterSense. The WaterSense label can be applied to some products that meet the EPA's definitions. One of those products is the "High Efficiency Toilet". The 1.25 to 1.60 gallons per flush toilets are qualified to use the WaterSense label. These devices are manufactured by about two dozen makers and there are more than 600 models of these toilets.

During the first quarter of 2011, I contacted numerous people, both governmental as well as non-governmental about these toilets. Chief on the list of those contacted was Lawrence Galowin. Dr. Galowin was a former section chief, program manager and researcher in building service systems at the National Institute of Standards and Technology and prior to that, he joined the Interior Department's Office of Saline Water in Washington in 1968. He was in effect the nation's Plumber-in-Chief.

I spoke with Dr. Galowin several times on the phone. He was most forthcoming about the EPA's WaterSense toilets. He was present at meetings (in New York City) between EPA's representatives (of which he was one) and representatives of the plumbing fixture manufacturers industry during the change caused by the Energy Policy Act (2005). He said to me that he and others told the representatives of the EPA and plumbing manufacturers industry that the WaterSense toilets violate the laws of physics in that

they do not have sufficient flow to move the solid waste through the sewer system. He told me that he (and others) were outvoted and the ASTM standard Water Closet Personal Hygiene Devices A112.4.2 - 2009 was adopted over his objection and the objection of others.

The rationale for these badly performing devices is published by the EPA at:
https://www3.epa.gov/watersense/docs/het_suppstat508.pdf

This WaterSense toilet has been promoted through consumer and commercial rebates. The City of San Francisco was an early adopter of these WaterSense products. Through the rebate they caused to be installed some 16,000 of these low flow closets. The laws of physics worked as nature intended and the lack of flow of water through the pipes soon caused the human waste to out-gas. I have chronicled this at my website (weblog) *The EPA® WaterSense High Efficiency Toilets* (<https://high-efficiency-toilet.blogspot.com/>). The City was then forced to purchase bleach and run it through the sewers of San Francisco to clear the odor and waste. They then think themselves to be good environmental stewards there. As the liberals of San Francisco see themselves as the only good quality stewards of the environment, they also attacked the City for pouring bleach into the sewer system to correct the stench.

As added insult to injury, the mass news media reported during the last week of 2016 that the City of San Francisco California has the smell of rotten eggs. (a euphemism for sewer gas). The odor was reported as being all over the City. When the City authorities investigated, they looked to the sewer system and did not find the problem. This provides me further proof that these toilets are the culprit. Did the Department of Public Works in San Francisco have a drone robot with gas sensors flying through the sewers? How did those authorities come to this conclusion that the odor was not arising from the sewers, it's most logical place of origin? The hydrogen sulfide gas is also a carcinogen and a listed EPA violation, when released into the environment. How is that not a more important element of this than the mere conserving of water? As a nation are we willing to dramatically undermine real property values just to save water?

Notwithstanding that the Congress enacted and various Presidents signed the bills into the laws relevant, to adopt these water saving measures, the problems remain. I fear that your predecessor has ignored all letters and pleas coming from me and acted against both common sense, and in terms of smell, common decency, and supported these abominations.

Part of me believes that the EPA bureaucrats, rather than go back to Congress and explain the problem the EPA has created, would prefer if we had robot drones flying through the nation's sewers with odor detectors reporting levels of carcinogens, rather than admit the error and end the WaterSense toilet and restore the 3.5 or 5.0 gallon toilet. What has always struck me as most pertinent to all of this is that the government

officials/workers I have been in contact with never see water as the renewable resource it is and act like that amount of water we use is a finite resource that follows no hydrologic cycle.

Every time the EPA has sponsored rebates that I have been able to learn about, I have written the various people involved. Usually that is city government or town council members or natural resources commission. In only one case has anyone ever written back. I can only believe that the authorities involved are too embarrassed to admit they have accomplished nothing but imbalance the limited-self-government self-healing properties.

Since 2011 when I created this 'blog, there have been approx 4,000 views of it. There are no links or data-mining that brings remuneration to me on it. Not that I can control.

I know that you coming to believe all this as true on your own part may never cause Congress to repeal/amend the part of the law relevant. But should you come to accept my pleas, you have it within your power to ask Congress to defund the rebates that may give sufficient traction to get the law changed in favor of common sense. I believe you have the authority as the EPA administrator to change the focus and funding away from this frivolous program to something more worthy.

Yours:

(b) (6)



References:

Wikipedia entry on hydrogen sulfide:

https://en.wikipedia.org/wiki/Hydrogen_sulfide#Safety

The EPA's High Efficiency WaterSense Toilet

<https://high-efficiency-toilet.blogspot.com>

(9) (q)

LOS ANGELES CA 900

18 FEB 2017 PM 11:11

FEB 27 2017



Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460



Office of the Administrator 1101A
Mr. Scott Pruitt, Esq., Administrator

20460-



President Donald J. Trump

1600 Pennsylvania Ave. Washington D.C. 20460

House Speaker Paul Ryan

20 South Main St. Janesville, WI. 53545

Sec. of EPA Scott Pruitt

1200 Pennsylvania Ave. N.W. Washington D.C. 20460-1101A

RECEIVED

2017 FEB 27 PM 3:08

OFFICE OF THE
EXECUTIVE SECRETARIAT

Feb. 18. 2017

Why we need Regulatory Reform – 600 days and counting!

Dear President Trump, Speaker Ryan & Secretary Pruitt,

On Sunday Feb. 19, 2017, "The Meadow's Business Park" a City of Tomah, Wisconsin sponsored 64ac. business development. Will have waited **600 days** now, for an AJD (Approved Jurisdiction Decision) from the Army Corps of Engineers (ACOE) and the EPA. This ordinary request is suppose to be routinely responded to by the ACOE & EPA in their 60 day processing timeframe.

Their procrastination, unsubstantiated data and clear obstruction from laws. Is particularly troubling when regulatory staff have personal agenda's, contrary to the record. This now affects parties like City of Tomah, Kevin Pierce (Hawkes Company) and myself without merit or standing. The City has lost at least three (3) shovel ready business in the past 2yrs. and has 10 million dollars of prospects on the line today. Not to mention to the Jobs, secondary incomes and growth the business park will create. Currently Monroe County has 75 million dollars of new potential Tax base, Jobs and Growth waiting response's from the St. Paul Army Corps of Engineers offices.

Meadows Business Park

- Of the 64 ac. only 2-3 ac. are isolated wetlands, and the plans are to avoid these areas. With exception of road crossings, which are generally permitted. This is a state issue, not a federal jurisdictional wetland (46 miles from traditional navigable waters) (TNW) the Wisconsin River.
- United States Supreme Court vacated this position and site in (U.S. v. Gerke) 2006, along with (Rapanos v. U.S.) 547 U.S. 715 (2006) The personal agenda's of the St. Paul (ACOE) personal, fail to acknowledge case laws like SWANCC, Rapanos, Great Norwest or Hawkes too mention a few. Instead they create their own positions, falsify data of on site visits and extending the unattainable.
- Five (5) very qualified Environmental consultants (Sanders, Straw, Bopray, Kagel & Newling) have been to the site, multiple times over the years. And strongly disagree with the St. Paul (ACOE) positions and preliminary conclusions. Dr. Sanders and Mr. Newling are former (ACOE) officials and authors of the Corps "87" delineation manual. Otherwise referred to as the "Wetland Manual" So the gentlemen who wrote the book, disagree with the agents enforcing today's implications.

Hawkes Co.

- The United States Supreme Court ruled unanimously 8-0 in favor of Hawkes Co. in May of 2016 (U.S. Army Corps of Eng. v. Hawkes) 2015 – 290 This finally allow's property owners nationwide the right to appeal a AID from the Corps. Something unattainable for the last 30yrs.

Note - Justice Kennedy's comments in Hawkes: 1) "the act's ominous reach, would again be unchecked" 2) "agency's unfettered discretion" 3) "continues to raise troubling questions regarding the governments power to cast doubt on the full enjoyment of private property throughout the nation"

- On **1-24-2017** a Minnesota District Judge vindicated Kevin Pierce of Hawkes Co. with a decision favoring Hawkes and property owners like us. Ruling the St. Paul Army Corps of Engineers failed to prove a surface water connect or significant nexus test. Required by (Rapanos v. U.S.) 547 U.S. 715, 778-82 (2006) (Kennedy, J. concurring) Like Hawkes.. the corps always has site data to collect, But never show up to complete or verify!

Note - Judge Montgomery's comments: "the corps transparently obvious litigation strategy" – leave's plaintiffs without an adequate remedy until the corps...achieve[s] the result its local officers desire, without establishing CWA jurisdiction.

Or **Justice Alito's comments:** "the uncertain reach of the Clean Water Act.... Leaves most property owners with little practical alternatives but to dance to the EPA's {or to the Corps} tune" Id. at 1002 (quoting Sackett v. EPA, 132S. Ct.1367,1375 (2012) Aloto, J., concurring)

Pretty said that we live in a nation, where a law confirmed in 2006 (Rapanos) Is still not implicated by the agencies [EPA / ACOE] 10yrs. later in 2017. The same agency's that were scolded repeatedly, by Justice's in (Sackett, Koontz, Great Northwest and now Hawkes) **and today it is still business as usually ... Pre - "2006"**

The City, our consultants, U.S. Representatives and myself, have communicated relentlessly by Phone, U.S. mail, E-mails, site visits, meetings and 2 personal visits to the St. Paul District office's to meet with corps officials and Col. Calkins. With the same results **"We're working on the file"**

On Feb. 3, 2017 we (Pete Thorson, Kelly Bopray & Kevin Pierce) met with Major General Wehr of the Mississippi Valley Division in Vicksburg, overseeing the corrupt St. Paul District. Our presentation of the irregular practices, unsubstantiated and falsified data should have been overwhelming. Kevin Pierce testimony of his experiences in the (Hawkes case) 13-cv-00107-ADM-TNL doc 85 1/24/17 was riveting. When his vindication can be easily confirmed, by the Judge Montgomery's decision and comments (see pg. 26 of the decision).

Now 2 weeks later.... No response yet from M.G. Wehr, or his staff. Col. Calkin's replied, It's submitted and forthcoming. The same response we have heard for the past year!

All we expect is the fair and equitable use of our private properties. Like others have been afforded, and where communities can enjoyed the economic impacts thereafter. Then assurance's that property owner's that follow us, are not exploited like Pierces and our families have had to endure over these troubling years.

Can you assist us?

Pete Thorson

(b) (6)

Pete Thorson

c-(b) (6)

e-mail – constructionmgm@centurytel.net

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Hawkes Co., Inc., Pierce Investment Co.,
and LPF Properties, LLC,

Plaintiffs,

v.

United States Army Corps of Engineers,

Defendant.

**MEMORANDUM OPINION
AND ORDER**

Civil No. 13-107 ADM/TNL

Gregory R. Merz, Esq., and Nancy Quattlebaum Burke, Esq., Gray Plant Mooty Mooty & Bennett, PA, Minneapolis, MN, on behalf of Plaintiffs.

Daniel R. Dertke, Esq., United States Department of Justice, Washington, D.C., Friedrich A.P. Siekert, Esq., United States Attorney's Office, Minneapolis, MN, and Molly McKegney Hunt, Esq., United States Army Corps of Engineers, St. Paul, MN, on behalf of Defendant.

I. INTRODUCTION

On October 28, 2016, the undersigned United States District Judge heard oral argument on Plaintiffs Hawkes Co., Inc. ("Hawkes"), Pierce Investment Co. ("Pierce Investment"), and LPF Properties, LLC's ("LPF") Motion for Summary Judgment [Docket No. 49] and Defendant United States Army Corps of Engineers' (the "Corps") Cross Motion for Summary Judgment [Docket No. 79]. For the reasons set forth below, Plaintiffs' Motion is granted and the Corps' Cross Motion is denied.

II. BACKGROUND

This case arises from a determination made by the Corps that it has jurisdiction, under the Clean Water Act, 33 U.S.C. § 1251 et seq. ("CWA"), over 150 acres of wetlands located more than 90 river miles and 40 aerial miles from the nearest navigable water, the Red River of the North ("Red River"). Plaintiffs seek judicial review pursuant to the Administrative Procedures

AR 59–61. In 2007, Hawkes told the Corps that the peat it was currently mining would be depleted in approximately ten years, and that expanding its operations to the Wetlands was necessary to extend the life expectancy of its mining operations. AR 61, 74. This 10-year period has nearly elapsed, and yet the Corps asks this Court to remand the matter back to it for yet another chance to establish CWA jurisdiction.

Remand under these circumstances would fuel what the Eighth Circuit characterized as the Corps’ “transparently obvious litigation strategy”—leaving Plaintiffs without an adequate remedy until “the Corps . . . achieve[s] the result its local officers desire, abandonment of the peat mining project”—without ever having to establish CWA jurisdiction. Hawkes, 782 F.3d at 1001. As the Eighth Circuit noted, “the uncertain reach of the Clean Water Act and the draconian penalties imposed for the sort of violations alleged in this case . . . leaves most property owners with little practical alternative but to dance to the EPA’s [or to the Corps’] tune.” Id. at 1002 (quoting Sackett v. EPA, 132 S.Ct. 1367, 1375 (2012) (Alito, J., concurring) (internal quotation marks omitted)). Plaintiffs should not have to continue to wait to mine their land while the Corps engages in a third effort to establish regulatory jurisdiction over the Wetlands.

Accordingly, the proper remedy here is to set aside the Revised JD as arbitrary and capricious, and to enjoin the Corps from asserting jurisdiction over the Wetlands. This conclusion is not reached lightly, as the Court is aware that peat mining can have significant impacts on the environment. However, peat mining and processing is regulated in Minnesota through permits issued by the Minnesota Department of Natural Resources, thereby ensuring that Plaintiffs’ peat mining operations will not go unregulated or unchecked. See, e.g., Minn. Stat. §



PROPOSED:
THE MEADOWS BUSINESS PARK
TOMAH, WISCONSIN



OPTION A

(b) (6)



SHREVEPORT LA 710

21 FEB 2017 PM 3 L



Sec. of EPA Scott Pruitt

Environmental Protection Agency

1200 Pennsylvania Ave. N.W.

Washington, DC. 20460-1101A

FEB 27 2017

20460-



(b) (6)

E. Scott Pruitt, Administrator
Environmental Protection Agency
Office of the Administrator, 1101A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Mr. Pruitt:

President Trump recently wrote me evincing great interest in my recommendation for reducing taxes and regulations. In line with his campaign promises to trim both and to put America's labor force back to work, I proposed cuts to tobacco taxes and regulations.

I highlighted the genius of his selection of Vice President Pence, who declares that "smoking doesn't kill"; who decries anti-tobacco legislation as impinging on individual freedom; and who avers, "What is more harmful to the nation, second hand smoke or back-handed big government disguised in do-gooder healthcare rhetoric?"

Moreover, the President chose transition team members affiliated with the tobacco industry, Myron Ebell being one. When in Congress, both the Vice President and Tom Price, now Secretary of Health and Human Services, voted against anti-tobacco bills. The nominee for Secretary of Agriculture notes that "Tobacco is a cash crop for [Georgia]". The Press Secretary successfully kept a room available for smokers taking exams at his college.

The first step is to rescind the prohibition on smoking in federal facilities (instituted by *Bill Clinton* in irresponsible Executive Order 13058). The second step is to force businesses in interstate commerce (airlines, trains, buses, workplaces, and so on) to revoke similar rules. The final step is to eliminate federal taxes on tobacco.

Encouraged by your long association with Myron Ebell and his efforts to debunk the "science" behind climate change and the "dangers" of tobacco, I look forward to you supporting the President and the Republicans in rolling back taxes and regulations on tobacco.

Sincerely,

(b) (6)

cc: Vice President Michael R. Pence
Myron Ebell, Director, Center for Energy and Environment, Competitive Enterprise Institute,
1310 L Street N.W., 7th Floor, Washington, D.C. 20005
Altria Client Services, 6601 West Broad Street, Richmond, VA 23230
PMI Global Services, 127 Park Avenue Floor 7, New York, NY 10017
Reynolds American, 401 N. Main St., P.O. Box 2990, Winston-Salem, NC 27101

(b) (6)



FCL 20361218

PORTLAND OR 970

21 FEB 2017 PM 6 L

FEB 27 2017



E. Scott Pruitt, Administrator
Environmental Protection Agency
Office of the Administrator, 1101A
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

20460-



(b) (6)

February 21, 2017

The Hon. Scott Pruitt
US Environmental Protection Agency
Office of the Administrator, Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

RECEIVED
2017 FEB 27 PM 3:08

OFFICE OF THE
EXECUTIVE SECRETARIAT

RE: **Regulation Overreach**

Dear Director Pruitt;

Congratulation on your appointment as our new EPA Director.

And now to the business of your office. The action referred to in the attached news article is a good example of the "war on coal". The proposed Millennium coal export facility is a good project that has been embraced by a majority the citizens of Kelso-Longview. This project has been and is being studied to death.

I want to address the five bullets on page two:

- 1) The railroad coal cars do not emit coal dust. They are sprayed with a sealant when they leave the Wyoming mine and coal particles have not been found along the train track between Wyoming and West Coast destination points. Millennium Bulk Terminals has clearly stated that they intend to spray the stockpiles at the Longview coal dock to control any wind-born material.
- 2) This is an industrial operation. There will be no more noise than usual. The unit coal trains make no more noise than other types of freight trains. We get sixty (60) trains a day through Kelso on the BNSF-Union Pacific main line and the only noise we ever hear are the whistles.
- 3) It is going to take some additional rail track between the main line and the Millennium coal dock. Everybody knows that and plans are being developed to address this issue with emphasis on no surface rail crossings. This cost will undoubtedly be covered by a combination of funding from the public and private sectors.
- 4) What greenhouse gas emissions? Is it the exhaust from the diesel locomotives? Well, good luck with that! Are we saying that foreign coal users are guilty of greenhouse gas emissions. Well that might be true but there is not much we in the US can do about that. If it is any consolation I heard that Powder River coal burns cleaner than the coal currently being used In Japan and China.
- 5) There are not enough fish in the Columbia River to go around. Commercial fisherman have basically disappeared and the sport salmon fishing season keeps getting shorter. Millennium is very community minded and I'm confident they will partner with any and all ongoing efforts to improve the Columbia River fishery.

This is an example of EPA being out of control, of smacking down a community with a heavy hand of regulation. IT HAS TO STOP!

With warm regards..

(b) (6)

cc: Region 10, EPA, Seattle, WA.
Millennium Bulk Terminals

**BAND
CHRISTMAS**

**Jazz
ORCHESTRA**

First Baptist Church
747 Wheeler Street Longview, Washington

\$5.00 general admission
\$4.00 students and seniors
12 and under-free

VOICE OF THE LOWER COLUMBIA REGION SINCE 1923

THE DAILY NEWS

Walk & Knock bags in today's paper!

Nonperishable food pickup starts 10 a.m. Saturday



Jazzing up Christmas

Northwest Jazz Orchestra among holiday shows this weekend **ENTERTAINMENT, PAGE C1**



FEW SHOWERS

4S • 41

FORECAST, D4

THURSDAY, DECEMBER 1, 2016

tdn.com

EPA calls for revised coal study

**Federal agency
finds Corps' work
'inadequate'**

MARISSA LUCK
mluck@tdn.com

A draft federal study on the proposed Longview coal dock is so "inadequate" in the eyes of another federal agency that it's recommending the study be thoroughly revised and resubmitted for public comment.

If followed, the recommendation could further set back the project, which already has been under permitting scrutiny for more than four years.

The U.S. Environmental Protection Agency submitted a letter Tuesday criticizing the 3,000-page federal draft environmental impact statement on the coal project. The EPA found the study, conducted by the U.S. Army Corps of Engineers, had too narrow of a scope that failed to address several project impacts, such as those on air quality, vehicle transportation, noise, rail traffic, climate change, water quality, aquatic resources and tribal resources.

More than 3,300 comments on the study were submitted during a comment period that ended Tuesday, according to the Corps. Originally, the Corps had planned to release a final environmental

study on the project sometime in mid-2017. (A separate environmental impact statement is being conducted by the state Department of Ecology and Cowlitz County.)

However, the EPA suggested that given the magnitude of the additional information necessary, the Corps should issue a new draft study and have an additional public comment period before issuing a final version.

"Because the Corps analysis of effects is much too limited, the Corps DEIS does not adequately assess the potentially significant environmental impacts of the proposal," the EPA wrote in its letter.

Although the Corps may not be required to follow the EPA's recommendations, the EPA's analysis could hold important sway in courts if opponents challenge any potential permitting decisions on the project based on the Corps' study.

In its letter, the EPA noted that courts tend to see the agency as experts in the National Environmental Policy Act. It also wrote that courts are more likely to find the Corps acted in an "arbitrary and capricious manner" if it does not fully consider the effects of a project.

Millennium Bulk Terminals wants to build a coal dock on 190 acres of the former Reynolds

Metals Co. aluminum plant site. It would export 44 million metric tons of Rocky Mountain region coal annually, shipping it to Asia aboard about 840 vessels annually. Millennium estimates the terminal would support about 1,300 construction jobs; employ about 135 workers with an annual payroll of \$16 million; and would generate about \$150 million in taxes over 30 years.

The project has been controversial from the start, and the permitting process now has stretched out more than four years. Nevertheless, Millennium officials Wednesday downplayed

Please see EPA, Page A4

ay's unity is a very sign about the po- f OPEC," he added. analysts suggested pswings would be ly moderate — fallout minimal, t for the United Sal Guatieri, se- onomist at BMO Markets, said oil rise to an average rrel next year.

For the U.S. economy, that's "a sweet spot ... a high-enough price to spur investment in the energy industry but not enough to seriously drain purchasing power" of consumers, he said.

"The losers are Europe and Japan — oil-importing regions of the world" with barely growing economies, said Guatieri.

and her husband, FaceTime with ildren and grand- 1 in Italy and in rk. "It is free and see them as you she said.

e Calendar is the d by 91-year-old l, of Palo Alto, to ppointments for one tech tutoring elders at a Com- eaning Center, ed by Palo Alto's center Avenidas. uses computers te informational

erishes newsy or is emails from her n Jose and daugh- pertino. She also il to plan monthly with friends. uses Netflix to w episodes of the n drama "Heart- 'ith the holidays ing, she'll use it oing. everything in the

world on Amazon," she effused. "I've loved com- puters forever."

The research team sur- veyed 445 people between the ages of 80 and 93, on- line and over the phone. Elders were asked about their motivation for using cellphones, personal com- puters, video streaming services and other digital tools.

Contrary to stereotypes, most of the adults over 80 said they used at least one technological device reg- ularly, and doing so was related to higher levels of self-reported physical and mental well-being, reported Sims.

"The key here is that if you get them using these technologies, we could probably see some real benefits to quality of life in very old age," she said, in a prepared statement.

EPA

From A1

EPA's comments as just another step in the process.

"It's typical for the EPA to comment on projects of our scope. This is one fed- eral agency commenting on the work of a sister federal agency," said Bill Chapman, Millennium Bulk Terminals CEO. "We expect the Army Corps of Engineers will weigh that comment and the many supporting our project and complete the final environmental im- pact statement in a timely manner."

The EPA was less criti- cal of the state's environ- mental impact statement on the coal dock and even recommended the Corps adopt or incorporate some of the state's analysis into its study.

The EPA suggested the Corps' analysis was flawed because it:

- Only evaluated air pollution impacts at the project site itself and not outside the terminal area

- Only looked at severe noise impacts near the terminal, but not along the entire train route from Wyoming and Montana to Longview

- Did not incorporate the state's analysis on rail safety and congestion

- Did not evaluate the greenhouse gas emissions from the project (the state EIS did)

- Had too narrow of scope when evaluating the impacts to tribal fishing.

Opponents of the coal project, who widely crit- icized the federal doc- ument, said the Corps shouldn't take the letter lightly.

"The Army Corps flat- out ignored recommenda- tions from Tribes, cities, environmental groups ... with what would be the largest coal export terminal in North America," Brett VandenHeuvel, executive director of Columbia Riv- erkeeper, said in a written statement. "This should serve as a wake-up call to the Corps."

But Millennium noted that the Corps received thousands of positive com- ments, too.

"Our project — which will deliver family wage jobs to the Longview com- munity, contribute mil- lions in taxes and meet our state's strict environmen- tal standards — received thousands of letters of support. Those letters of support came from our lo- cal neighbors, union mem- bers, state lawmakers and a majority of the Longview City Council," Chapman said.



KAPSTONE

KapStone Paper and Packaging Corp
Longview, WA

Seeking Production Employees

Looking for a career instead of just a job? Apply at KapStone. A community leader with a nine-decade legacy of quality, KapStone is dedicated to its customers, its stakeholders, its employees and its community.

Page 2

(b) (6)

PORTLAND OR 970

NO FEB 20 1960



The Hon Scott Pruitt

US EPA

Office of the Administrator, mail stop 1101A

1200 Pennsylvania Avenue, NW

Washington, D.C. 20460

FEB 27 2017

20460-



FCL20358161



United Association of Journeymen and Apprentices of the
Plumbing and Pipe Fitting Industry of the United States and Canada

Three Park Place • Annapolis, Maryland 21401
(410) 269-2000 • Fax (410) 267-0262 • <http://www.ua.org>

Mark McManus
General President

Patrick H. Kellett
General Secretary-Treasurer

Michael A. Pleasant
Assistant General President

General Office File Reference:MM

February 22, 2017

OFFICE OF THE
EXECUTIVE SECRETARIAT

2017 FEB 27 PM 3:08

RECEIVED

The Honorable Scott Pruitt, Administrator
Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington DC 20460

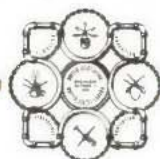
Dear Administrator Pruitt,

I am Mark McManus, General President of the United Association of Plumbers, Steamfitters and Pipefitters for the United States and Canada. A large percentage of our 340,000 members work in the domestic refining industry across the U.S., building, maintaining, and servicing these highly complex facilities on a daily basis. The United Association, in conjunction with North America's Building & Construction Trades Unions, has a well-established presence in many of these refineries, in some cases for more than 100 years.

I am writing to express my concerns with the Renewable Fuel Standard (RFS), which is stewarded by the Environmental Protection Agency (EPA) under the Energy Independence and Security Act of 2007 (EISA). The RFS mandates blending of ethanol and other biofuels into gasoline and distillates. The RFS also identifies refiners and importers as obligated parties and requires them to meet specific annual blending quotas, Renewable Volume Obligations (RVOs). Our concern is primarily with merchant refiners that are unable to meet their RVOs.

The EPA has put merchant refiners in jeopardy because most have little or no blending capability; therefore they are unable to influence the amount of biofuel blended; in other words, they are unable to meet their obligation, so they are required to purchase RINs in an unregulated, non-transparent, and illiquid market that has been subject to volatility and fraud. They often buy RINs from competitors and non-obligated parties, which is a form of economic double jeopardy. We support moving the point of obligation to the "rack seller" because the program would then work efficiently and American jobs will be saved.

- The EPA failed to meet its statutorily-required deadlines for setting the 2013/14/15 RVOs. Regulatory updates can be introduced that require the EPA to comply with the statutory schedule for setting the volume obligation set by Congress under the EISA.
- Uncertainty in the unregulated, non-transparent RIN market resulted in volatile RIN prices, tied to fears of hitting the 10% ethanol blend wall and RIN shortages spiking the price of a RIN from 1 cent and 5 cents from 2008-2012, up to \$1.47 in 2013.
- Volatility and uncertainty continue in the RIN marketplace, which creates winners and losers in the oil industry, without any benefit to government, the "environment," or even biofuels producers, while creating "windfall profits" for companies that are "long" RINs, including integrated refiners and non-obligated parties like large retailers.





The Honorable Scott Pruitt, Administrator
Environmental Protection Agency
Page Number 2
February 22, 2017

- Congress required the EPA to base annual RVOs on estimates from the Energy Information Administration provided by October 31st of the year prior to a compliance year. Neither agency has fully complied with these requirements. More importantly, the EPA deviates from EIA estimates and chronically overestimates production of cellulosic and advanced biofuels, which are unavailable in commercial quantities, yet obligated parties are required to blend these “phantom fuels” or purchase RINs to cover their obligations.

These factors have resulted in merchant refiners spending billions of dollars to comply with their obligations. This is unsustainable - the EPA must do something to fix the economic harm the RFS is having on merchant refiners, or we will see more plants close and American jobs lost, putting families and communities in crisis. We have seen the environmental movement put pressure on our government to shackle great American industries like refining, creating an avalanche of regulations, plant closures, and the loss of millions of high-paying American jobs.

Generally, refiners facing the greatest financial risk from the broken program are on the East Coast and Mid-continent, all else being equal. The main risks to East Coast refiners are higher operating costs, significant logistical challenges in sourcing crude oil, and direct competition from large, overseas Atlantic basin refineries. Philadelphia Energy Solutions (PES) has pointed to the RFS/RINs debacle as a contributing cause of layoffs in its workforce last year.

Given that domestic fuel supply to the East Coast is already relatively constrained, closure of an East Coast refinery(s) could give rise to a significant supply shock in regional fuel markets. The Colonial Pipeline is the main artery transporting fuel from Gulf Coast refineries to the East Coast and is at capacity. If an East Coast refinery shuts down, a fuel shortage could result, as we saw in 2016 when the line shut down, because there is no additional pipeline capacity available to increase supply. Consumers will likely experience a significant price hike before the supply shortage is filled by foreign refiners within the Atlantic basin.

In the Mid-continent, smaller merchant refiners face logistical challenges because they distribute refined product via pipeline to third-party terminals. Many are landlocked, with little opportunity to export fuel overseas to avoid RIN payments. Midwest merchant refiner CVR is on record saying 2016 RIN costs were higher than salaries and energy costs combined. The Mid-continent market would also suffer supply shocks if one of their major refiners went bankrupt.

I am asking you, as the new EPA administrator, to look closely at this issue and move the point of obligation to the “rack seller,” a change that would help balance program objectives while protecting the viability of merchant refiners. I applaud any effort to stop spending taxpayer money on this job-killing, failed environmental experiment, particularly over the past four years, that has been undermining our economy and could make us reliant on foreign refiners.

Thank you for considering our position on this important issue.

Sincerely,

Mark McManus
General President

MM:bdh



Founded 1889



UNITED ASSOCIATION

Three Park Place
Annapolis, MD 21401

Hasler

FIRST-CLASS MAIL

02/23/2017

US POSTAGE \$000.46⁰



ZIP 21401
011E11675022

FEB 27 2017

The Honorable Scott Pruitt, Administrator
Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington DC 20460



FCL20357420





EMBASSY OF COLOMBIA

S-EUSWHT-17- 0267

RECEIVED
2017 FEB 27 PM 3:07

OFFICE OF THE
EXECUTIVE SECRETARIAT

February 20, 2017

Mr. Scott Pruitt
Administrator
Environmental Protection Agency
Washington, DC

Dear Administrator Pruitt,

On behalf of President Juan Manuel Santos, the Government and People of Colombia and our Embassy here in Washington, I write to congratulate you on your confirmation to serve as the next Administrator of the Environmental Protection Agency of the United States of America. We look forward to working with you and the Trump Administration to further strengthen the U.S.-Colombia partnership.

Colombia is America's closest ally in Latin America, and the U.S.-Colombia relationship is one of the most important strategic partnerships in the region. It has allowed us to promote security, peace and prosperity in both of our countries, throughout the hemisphere and around the world. The special bond our nations share deepened with Plan Colombia, a bilateral strategy launched in 2000 that enjoyed strong bipartisan U.S. support. Plan Colombia made the difference in bringing our nation back from the brink of failure. It planted the seeds for peace and played a key role in securing the country. Through robust and sustained U.S. support for Plan Colombia, and with the sacrifice of Colombia's Armed Forces, ours is a nation transformed – a nation moving ahead to its post-conflict future.

The next phase of our partnership – Peace Colombia – will further strengthen our alliance. Peace Colombia will reinforce security gains we have achieved together, generate social and economic opportunities and help the nation be an even stronger partner for the United States in the Latin American region and the world. We stand ready to working with you to advance the interests of the United States and Colombia, in the region and the world.

Again, congratulations on your confirmation. We look forward to working with you and your team to continue advancing the U.S.-Colombia partnership.

Sincerely,

Juan Carlos Pinzón
Ambassador of the Republic of Colombia



EMBASSY OF COLOMBIA
1724 MASSACHUSETTS AVE, N.W.
WASHINGTON, D.C. 20036

CAP DISTRICT
MD 207
22 FEB 17
PM 5 L

NEOPOST

FIRST-CLASS MAIL

02/22/2017

US POSTAGE \$000.46⁰



ZIP 20008
041L10252499

FEB 27 2017

Mr.
Scott Pruitt
Administrator
Environmental Protection Agency
Office of the Administrator 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460



FCL20357446

20460-



CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

THOMAS J. DONOHUE
PRESIDENT AND
CHIEF EXECUTIVE OFFICER

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5300 • 202/463-5327 FAX

February 22, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Scott:

Congratulations on your confirmation as Administrator of the U. S. Environmental Protection Agency. Your public service as a member of the Oklahoma Senate and your principled leadership as Attorney General of Oklahoma place you in the position to serve our nation well as you take on this critical role.

The Chamber and our members have greatly appreciated your willingness to stand up to regulatory abuses when they occur and we applaud your actions, particularly in the "sue and settle" space. The Chamber shares your commitment to a regulatory system under which federal agencies are transparent with the public, accountable to Congress and the people, and evenhanded in their actions. We are looking forward to working with you and your team as we address the many reform priorities facing our country and the American business community.

I am sure that we will find a time to get together in the near future. Please don't hesitate to call any time the Chamber or I can be helpful.

Best wishes,

Sincerely,

Tom

OFFICE OF THE
EXECUTIVE SECRETARIAT

2017 FEB 27 PM 3:07

RECEIVED

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA
1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000

10-24/17

CAPITAL DISTRICT MAIL

23 FEB 2017 PM 1

Hasler

02/23/2017

US POSTAGE

FIRST CLASS MAIL

\$00.46



ZIP 20062
04044647040

FEB 27 2017



FCL20357392

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

20460-





International Association
of Drilling Contractors
10370 Richmond Ave, Suite 760
Houston, Texas 77042
P.O. Box 4287
Houston, Texas 77210

P +1.713.292.1945
F +1.713.292.1946
www.iadc.org

Administrator Scott Pruitt
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Pruitt,

Congratulations on your confirmation by the U.S. Senate for Administrator of the Environmental Protection Agency (EPA). The International Association of Drilling Contractors (IADC) and its members welcome the opportunity to work with you and your agency to advance the goals of safe and environmentally responsible development of our nation's oil, natural gas and geothermal resources.

IADC is a trade association representing worldwide interests of the onshore and offshore drilling industry since 1940. With over 1,400 members, IADC membership reaches nearly every state in the U.S. Our members operate the vast majority of onshore rigs in the U.S. as well as all the Mobile Offshore Drilling Units (MODUs) operating in areas subject to the jurisdiction of the U.S.

As a trade association, IADC's purpose is to advance drilling and completion technology, improve industry health, safety, environmental and training practices; and champion sensible regulation and legislation that facilitate safe and efficient drilling. Through its 17 Committees and 15 global Chapters, IADC creates the space for its members to connect, collaborate and create solutions aimed at addressing the industry's most critical issues. As you begin your tenure at EPA, IADC wants to serve as an educative resource for those in your agency who wish to understand more about drilling rigs and how they operate and the complexities of drilling holes miles into the ground. We recently launched a multimedia educational website, "Drilling Matters" to further delve into these topics, and it can be viewed at www.drillingmatters.iadc.org. Our members are also available to schedule rig visits should you have an interest in getting an up close look at rig operations.

IADC respectfully brings to your attention ongoing EPA matters that we look forward to your leadership on to ensure any regulation is fair and sensible. The first is the Quad O regulation (Emission Standards for New, Reconstructed and Modified Sources) which regulates methane as a pollutant and triggers regulation under the Clean Air Act to address existing sources. IADC has joined an industry lawsuit to fight this regulation due to the impact it will have on existing facilities.

EXECUTIVE SECRETARIAT

OFFICE OF THE

2017 FEB 27 PM 3:07

RECEIVED



International Association
of Drilling Contractors
10370 Richmond Ave, Suite 760
Houston, Texas 77042
P.O. Box 4287
Houston, Texas 77210

P +1.713.292.1945
F +1.713.292.1946
www.iadc.org

In addition, the EPA is undertaking a massive information collection effort aimed at oil and natural gas facilities to determine methane and VOC emissions from existing sources. This extensive collection request is a significant burden with unrealistic timelines and *inadequate* clarifications. The effort requires increased collaboration between the EPA and industry to ensure the data collection and use of that information is successful.

We would also urge your agency to work with industry, the U.S. Coast Guard and the Department of State on the issue of ballast water management and the implementation of the International Convention for the Control and Management of Ships' Ballast Water and Sediments. Industry is in support of S.168, the Commercial Vessel Incidental Discharge Act (CVIDA). The CVIDA eliminates the regulatory burden of complying with overlapping federal and state regulations. Working together, we can ensure that appropriately certified ballast water treatment systems are available, and that shipowners are not penalized when such systems, used as designed, fail to meet end-point discharge standards.

We appreciate your attention to these matters. IADC serves as an educational resource for those interested in learning more about how we drill for our nation's oil, natural gas, and geothermal resources, and we look forward to meeting with you and your team in the near future to discuss these issues further.

Sincerely,

Jason E. McFarland

President, IADC



IADC™

International Association of
Drilling Contractors
10370 Richmond Ave.
Suite 760
Houston, Texas 77042



FCL 20362217



20460-

IN HOUSTON

TX 773

18 FEB '17

PM 3 L

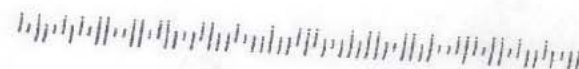


U.S. POSTAGE >> PITNEY BOWES



ZIP 77042 \$ 000.46⁰
02 1W
0001385833 FEB 17 2017

FEB 27 2017



(b) (6)

February 21, 2017

Mr. Scott Pruitt
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code 1101A
Washington, DC 20460

Dear Mr. Pruitt,

Congratulations on your new and very critical position! We have a situation in Western Maryland that has been the result of an EPA directive which we desperately need your assistance on.

We are being told by the State of Maryland that the EPA has put out a directive to plant trees and grasses to clean the Chesapeake Bay; however this is taking agricultural ground out of production for our neighbors in dairy farming and orchards.

In addition it may take away someone's home that has been residing there over 40 years.

I have enclosed some pictures and a copy of the letter that I sent President Trump for assistance.

I know that is not a big deal in the realm of the US problems, but it is for those of us living thru this. While I am not affected directly on my land, it will be directly across the road from me which will bring in unwanted wildlife and may cause driving issues with deer that are prevalent in our area.

Please help!

Sincerely

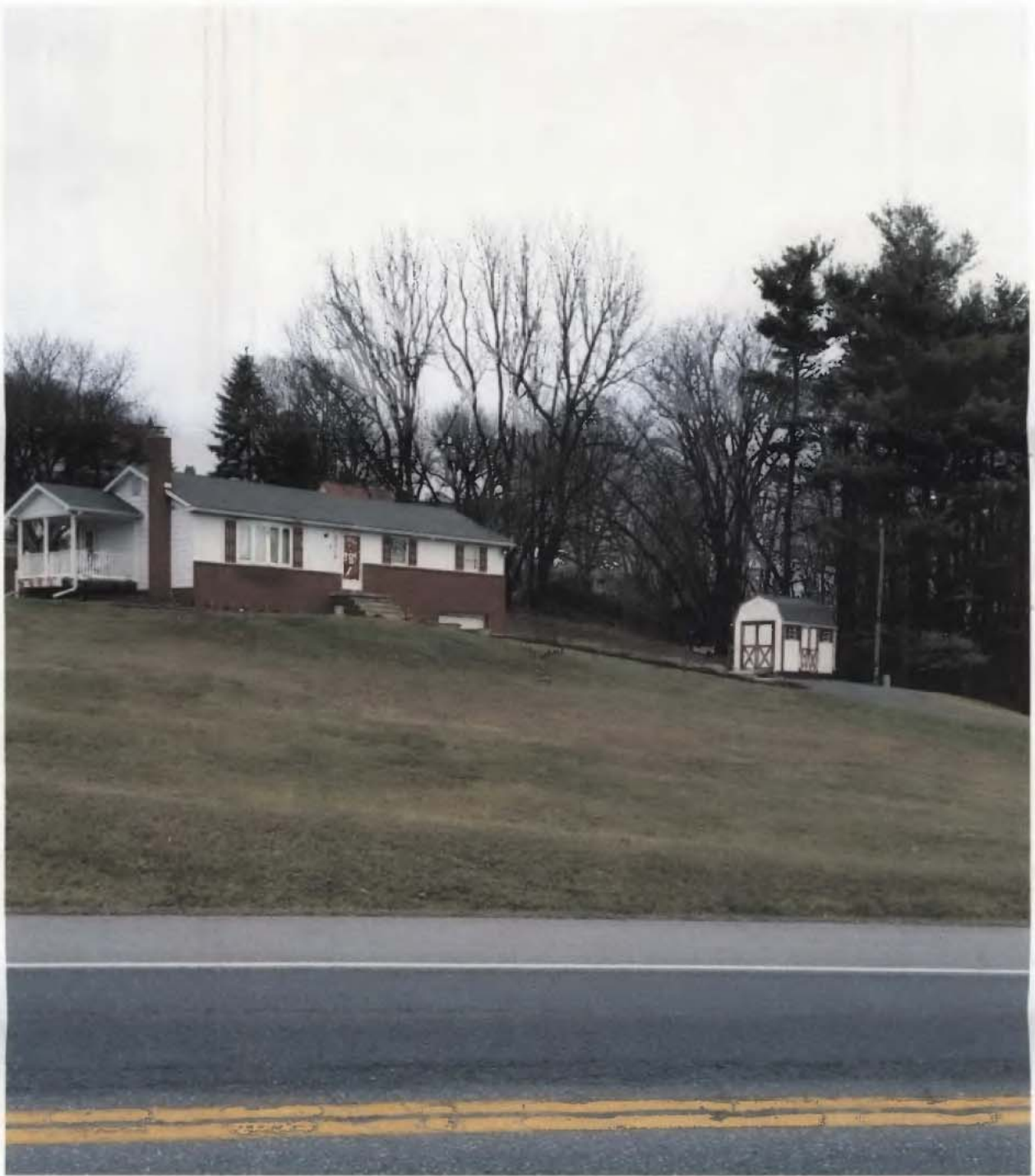
(b) (6)

(b) (6)

OFFICE OF THE
EXECUTIVE SECRETARIAT

2017 FEB 27 PM 3:07

RECEIVED



(b) (6) purchased this property in 1974, he has now been told that his septic is not on his land and the yard that he has been mowing for 43 years per the STATE OF MARYLAND, he is no longer to mow, and they may take his driveway so he will have no entrance to his home.